

Notice of Allowability

Application No.

10/077,383

Examiner

Joyce Tung

Applicant(s)

HAYDOCK ET AL

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/12/05.
2. ☒ The allowed claim(s) is/are claims 7-36 (final claims 1-30).
3. ☒ The drawings filed on 15 February 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

The applicant's amendment filed May 12, 2005 to the office action has been entered.

Claims 7-36 are pending.

EXAMINER'S AMENDMENT

1. The application has been amended as follows:

In claim 7, lines 7, after "5' to", delete "3" and therefore substitute – 3' --.

2. The following is an examiner's statement of reasons for allowance:

Concerning claims 7-36, no prior art has been found teaching or suggesting the method of amplifying a target nucleic acid in an aqueous solution via transcribing an intermediate duplex with the reverse transcriptase that lacks RNaseH activity in that the first strand of the intermediate duplexes comprises in the following order from 5' to 3': a phage-encoded RNA polymerase recognition sequence, a first spacer sequence comprising a sequence of from 12 to 20 nucleotides that consists of one nucleotide type or two different nucleotide types and a first target complementary sequence which can bind to a segment of the target nucleic acid and the second strand of the intermediate duplexes comprises in the following order from 5' to 3': a second target complementary sequence which can bind to a segment of the target nucleic acid, a second spacer sequence comprising a sequence of from 12 to 20 nucleotides that consists of one nucleotide type or two different nucleotide types and a phage-encoded RNA polymerase recognition sequence.

The closest prior art is the reference of Haydock et al. (WO 00/73486, issued December 7, 2000). Haydock et al. disclose a method for amplifying any nucleic acid sequence involving transcribing an intermediate duplex (See pg. 3, lines 18-34), which has the similar steps with the

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claimed invention. However, the intermediate duplex used in the instant invention does not have the same structure as the structure of the intermediate duplexes used in the method of Haydock et al. and there is no motivation to construct the intermediate duplex as claimed in claim 7 for amplifying a target nucleic acid.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joyce Tung whose telephone number is 703 (305) 7112. The examiner can normally be reached on Monday - Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 703 308 1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joyce Tung J.T
June 16 2005


KENNETH R. HORLICK, PH.D
PRIMARY EXAMINER
6/20/05